

The record considered on review is the same as that considered by the Administrative Law Judge and consists of the transcript of preliminary hearing held on May

5, 1994, and the exhibits attached thereto.

ISSUES

The Administrative Law Judge ruled for preliminary hearing purposes that claimant was entitled to temporary total and medical benefits. The respondent and insurance carrier request the Appeals Board review that order of the Administrative Law Judge, and contend that claimant failed to prove that he suffered personal injury by accident arising out of and in the course of his employment with the respondent and failed to prove that timely notice was given. Those are the two issues now before the Appeals Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board, for purposes of preliminary hearing, finds as follows:

Claimant has sustained personal injury by accident arising out of and in the course of his employment with the respondent on December 8, 1993. The Preliminary Hearing Order of the Administrative Law Judge should be affirmed.

On December 8, 1993, claimant slipped and fell while disconnecting an air conditioning system. A co-worker, Roger Clough, witnessed the incident. At the time of the accident, claimant did not consider his injury serious. However, claimant's symptoms increased causing him to seek the services of his family doctor, Jeffrey S. Reiswig, M.D., several weeks later. Although Dr. Reiswig's office notes of January 5, 1994, indicate that claimant denied any injury, the doctor's office note of April 20, 1994, indicates that claimant was injured on the job.

Claimant notified his supervisor, Lynn VanHorn, of the accident within two days of the incident. Therefore, notice is timely.

The Administrative Law Judge had the opportunity to personally view the claimant and his supervisor, Lynn VanHorn, testify. The Administrative Law Judge apparently found the claimant to be credible. The Appeals Board also finds claimant's testimony credible and persuasive.

AWARD

WHEREFORE, it is the finding, decision and order of the Appeals Board that, for preliminary hearing purposes, the Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl dated May 10, 1994, should be, and hereby is affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of July, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

cc: Randy S. Stalcup, 2831 E Central, Wichita, Kansas 67214
Dana D. Preheim, 200 W Douglas, Suite 630, Wichita, Kansas 67202
Shannon S. Krysl, Administrative Law Judge
George Gomez, Director